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W.P. 1616/03 (J)

BEFORE THE M.P. STATE ADMINISTRATIVE TRIBUNAL JABALPUR

O.A. No. 5315 of 2000

Applicant : Prabhunath Bharti
S/o Kamlu Halba
Asstt. Teacher Primary School
Keshnapur Block- Darbha,
Distt. ~~Bastar~~. Bastar

VERSUS

Respondents :

1. State of M.P.
through : Secretary
Tribal Welfare Deptt.
Mantralaya Bhopal.

2. The Joint Director
Tribal Welfare Deptt.
JAGDALPUR

3. The Commissioner Bastar
JAGDALPUR.

4. The Collector Bastar
JAGDALPUR.

Application U/S 19 of theAdministrative Tribunal's Act

Details of Application

1. Particulars of Applicant :

As per cause Title

2. Particulars of Respondents:

As per cause title

3. Particulars of the orders against which this application is made :

Contd...2

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HIGH COURT OF CHHATTISGARH AT BILASPUR
WRIT PETITION (S) NO. 2095 of 2005

Petitioner		Prabhunath Bharti S/o Kamlu Halba, Asstt. Teacher, Primary School, Keshnapur, Block-Darbha, Distt. Bastar.
	Versus	
Respondents	1.	State of M.P. through: Secretary, Tribal Welfare Deptt. Mantralaya Bhopal.
	2.	The Joint Director, Tribal Welfare Deptt. Jagdalpur
	3.	The Commissioner, Bastar, Jagdalpur.
	4.	The Collector, Bastar, Jagdalpur.

APPLICATION U/S 19 OF THE ADMINISTRATIVE TRIBUNA'S ACT

(SB : Hon'ble Shri Justice Satish K. Agnihotri)

Present :- Shri Prafull Bharat, Advocate for the petitioner.
Shri Yashwant Singh Thakur, Govt. Advocate for the respondents/State.

ORDER
(Passed on this 18th day of July, 2007)

1. By this petition, the petitioner challenges the legality and validity of the impugned order dated 3.11.99 (Annexure A/5), whereby the respondent No. 4/Collector, Bastar, Jagdalpur has found that the caste certificate submitted by the petitioner was not correct, as he belongs to "Kalar" community. In view of that, appointment of the petitioner on the post of Assistant Teacher, Primary School, Keshapur, Block Darbha was cancelled and by the impugned order dated 14.8.2000 (Annexure A/6), the appeal filed by the petitioner was dismissed by the Commissioner, Bastar Division, Jagdalpur.

2. According to learned counsel appearing for the petitioner, the petitioner belongs to "Halba" community, which is declared as original tribe. Certificate to that effect was issued by the Naib-Tahsildar, Jagdalpur vide order dated 1.2.92 (Annexure A/1). The petitioner, on the basis of the said caste certificate issued by the Naib-Tahsildar, Jagdalpur, applied for appointment on the post of

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Lower Division Teacher and after proper selection, the petitioner was appointed as Lower Division Teacher and was posted in Primary School, Keshapur, Block Darbha vide order dated 9.1.81 (Annexure A/2).

3. The respondent No. 4 issued a show-cause notice to the petitioner on 4.10.99, which was replied on 11.10.99 (Annexure A/3). After having considered the reply filed by the petitioner, the respondent No. 4 found that the petitioner belongs to "Kalar" community, not "Halba" community which is a Scheduled Tribe. The respondent No. 4 removed the petitioner from his services vide order dated 3.11.99 (Annexure A/5), without holding proper enquiry.

4. Being aggrieved and dissatisfied with the said order, the petitioner filed an appeal, being Appeal Case No. 25/B-121/99-2000, before the Commissioner, Bastar Division, Jagdalpur. The Commissioner dismissed the appeal vide order dated14.8.2000 (Annexure A/6).

5. I have heard learned counsel appearing for the parties, perused the records and document appended thereto. It is evident that the Revenue authorities have decided the caste of the petitioner without referring the matter to the Caste Scrutiny Committee, as held by the Hon'ble Supreme Court in the case of **Kumari Madhuri Patil and another vs. Addl. Commissioner, Tribal Development and others**[1] and in the case of **State of Maharashtra & Ors. vs. Ravi Prakash Babulalsing Parmar & Anr.**[2].

6. The Supreme Court in the matter of **State of Maharashtra & Ors. vs. Ravi Prakash Babulalsing Parmar & Anr.** (supra) observed as under :-

> "12. The Caste Scrutiny Committee is a quasi-judicial body. It has been set up for a specific purpose. It serves a social and constitutional purposes. It is constituted to prevent fraud on Constitution. It may not be bound by the provisions of Indian Evidence Act, but it would not be correct for the superior courts to issue directions as to

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how it should appreciate evidence. Evidence to be adduced in a matter before a quasi-judicial body cannot be restricted to admission of documentary evidence only. It may of necessity have to take oral evidence.

13. Moreover the nature of evidence to be adduced would vary from case to case. The rights of a party to adduce evidence cannot be curtailed. It is one thing to say how a quasi-judicial body should appreciate evidence adduced before it in law but it is another thing to say that it must not allow adduction of oral evidence at all."

The Supreme Court has clearly held that the dispute with regard to the caste of a person can be decided by the Caste Scrutiny Committee alone. The Supreme Court has further given the procedure asto how the Caste Scrutiny Committee should decide the dispute. In view of the well settled principle of law, the Collector, Bastar, Jagdalpur has exceeded his jurisdiction in declaring the fact that the petitioner was not a Scheduled Tribe.

7. In view of the foregoing, the impugned order dated 3.11.99 (Annexure A/5) passed by the respondent No. 4/Collector, Bastar, Jagdalpur and the impugned order dated 14.8.2000 (Annexure A/6) passed by the Commissioner, Bastar Division, Jagdalpur are set aside. However, the petitioner shall not be entitled to any benefit or reinstatement in service till the Caste Scrutiny Committee decides the dispute in accordance with law.

8. In view of the fact that the impugned order was passed on 3.11.99, the matter is remitted back to the Collector, Bastar, Jagdalpur to refer the dispute to the Caste Scrutiny Committee forthwith and the Caste Scrutiny Committee, in turn, shall decide the dispute as early as possible, preferably, within a period of three months from the date of receipt of reference by the Collector. The Collector, Bastar, Jagdalpur after receiving the report of the Caste Scrutiny Committee

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in respect of the caste of the petitioner, shall decide the case afresh and pass appropriate order in accordance with law.

9. As a result and for the foregoing reasons, the writ petition is allowed and the matter is remitted back to the Collector, Bastar, Jagdalpur for fresh adjudication in the light of the above-stated direction. There shall be no order as to costs.

Sd/-
Satish K. Agnihotri
Judge

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1. (1994) 6 SCC 241
2. 2006 AIR SCW 6093